REGISTERED No. M. 4631.

GAZETTE EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VII. No. 3.

Trivandrum, Thursday, 12th January 1956|28th Dhanu 1131.

NOTIFICATION.

No. LD. (b) 3-1857/52/Law. *12th January* 1956.

The following Act of the Travancore-Cochin Legislature received the assent of the President and is hereby published for general information.

By order of His Highness
the Raj Pramukh,
T. R. BALAKRISHNA IYER,
Secretary to *Government*.

Government Secretariat,
Law Department,
Trivandrum.

ACT 1 OF 1956.

THE TRAVANCORE-COCHIN REQUISITIONING AND ACQUISITION OF PROPERTY ACT, 1955

An Act to provide for the requisitioning and acquisition of property for public purposes, not being purposes of the Union.

Preamble.—Whereas it is expedient to provide for the requisitioning and acquisition of property for public purposes, not being purposes of the Union;

Be it enacted in the Sixth Year of the Republic of India as follows:—

1. *Short title, extent, commencement and duration.*—(1) This Act may be called the Travancore-Cochin Requisitioning and Acquisition of Property Act, 1955.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once and shall remain in force for a period of six years from the date of the commencement of this Act.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "award" means any award of an arbitrator made under Section 8;

(b) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(c) the expression "person interested", in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;

(d) "premises" means any building or part of a building and includes—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "property" means movable or immovable property of every kind and includes any rights in or over such property;

(g) "State" means the State of Travancore-Cochin;

(h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. *Power to requisition property.*—(1) Where the Government are of opinion that any property is needed or likely to be needed for any public purpose, not being a purpose of the Union, and that the property should be requisitioned, the Government—

(a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show

cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and

(b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the Government, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the Government are satisfied that it is necessary or expedient so to do, they may, by order in writing, requisition the property and may make such further orders as appear to them to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof—

(a) which is *bona fide* used by the owner thereof as the residence of himself or his family, or

(b) which is exclusively used for religious worship by the public or as a school, college, hospital, dispensary, creche or public library or as an orphanage or other similar public charitable institution or for the purpose of accommodation of persons directly connected with the management of such place of worship or such hospital, dispensary, creche, orphanage or charitable institution,

shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), the Government shall provide such tenant with alternative accommodation which in their opinion is suitable.

4. *Power to take possession of requisitioned property.*—(1) Where any property has been requisitioned under Section 3, the Government may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the Government or any person duly authorised by them in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the Government or any person duly authorised in this behalf may take possession of the property and may, for that purpose, use such force as may be necessary.

5. *Rights over requisitioned property.*—(1) All property requisitioned under Section 3, shall be used for such purposes as may be mentioned in the notice of requisition.

(2) Where any premises are requisitioned under Section 3, the Government may, after notice, order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice,

within such reasonable time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the Government may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. *Release from requisitioning.*—(1) The Government may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force :

Provided that where the purposes for which any requisitioned property was being used cease to exist the Government shall, unless the property is acquired under Section 7, release that property, as soon as may be, from requisition.

(2) Where any property is to be released from requisition, the Government may, after such inquiry, if any, as they may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the property is released from requisition to be published in the Gazette and in the case of immovable property such notice shall also be affixed on some conspicuous part of the property.

(5) When a notice referred to in sub-section (4) is published in the Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Government, be void ;

Provided that the benefit of this sub-section shall not be available to the Government—

(i) where the injury to such property is caused by any wrongful act or default of Government, or

(ii) where such injury to such property would not have been caused but for the requisition.

7. *Power to acquire requisitioned property*.—(1) Where any property is subject to requisition, the Government may, if they are of opinion that it is necessary to acquire the property for a public purpose, not being a purpose of the Union, at any time acquire such property by publishing in the Gazette a notice to the effect that the Government have decided to acquire the property in pursuance of this section:

Provided that before issuing such notice, the Government shall call upon the owner of, or any other person who, in the opinion of the Government, may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Government may pass such orders as they deem fit.

(2) When a notice as aforesaid is published in the Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Government and the Government decide that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

8. *Principles and method of determining compensation in cases where immovable property is requisitioned or acquired*.—(1) Where any immovable property is requisitioned or acquired under this Act, there shall be paid compensation the amount of

which shalt be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amonnt of compensation can be fixed by agreement, it shall be paid in accordance with such agreemet ;

(b) where no such agreement can be reached, the Government shalt, within three months of taking possession of the property under Section 4 or of the pubtication of the notice under snb-section (1) of Section 7, as the case may be, appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court ;

(c) the Government may, in any particular case, nominate a person having expert knowledge as to the neture of the immovable property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose ;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shalt state what in their respective opinion is a fair amount of compensation ;

(e) the arbttrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compeosatton sball be paid ; and in maktng the award, he shall have regard to the circumstences of each case and the provisions of sub-secttons (2) and (3), so far as they are applicable ;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the emount thereof amongst such persons ;

(g) nothing in the Arbitration Act, 1940 (Centrel Act X of 1940) shall appty to arbitrations under this section.

(2) The amount of compensation payable for the requisitioning of any immovable property shall consist of—

(a) a recurring peyment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the immoveble property, if it had been taken on lease for that period ; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :—

(i) pecunlary loss due to requisitioning ;

(ii) expenses on account of vacating the requisitioned premises ;

(iii) expeoses on accouut of re-occupying the premises upon release from requisition ; and

(iv) damages (other than normal wear and tear) caused to the immovable property during the period of requisition, including the expenses that may have to be incurred for restoring the same to the condition in which it was, at the time of requisition

(3) The compensation payable for the acquisition of any immovable property under Section 7 shall be the price which the requisitioned immovable property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition.

9. *Payment of compensation, relating to immovable property.*—The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the Government to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

The amount of compensation payable under the award shall carry interest at the rate of six per cent. per annum from the date on which it is specified as payable in the award.

10. *Appeals from awards in respect of compensation.*—Any person aggrieved by an award of the arbitrator made under Section 8 may, within sixty days from the date of such award, prefer an appeal to the High Court :

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

11. *Government and Officers and authorities empowered by Government and arbitrator to have certain powers of civil courts*—The Government or any officer or authority empowered by Government under sub-section (1) of Section 17 and the arbitrator appointed under Section 8, while holding an inquiry or, as the case may be, arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely: —

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) reception of evidence on affidavits ;

(d) requisitioning any public record from any Court or Office ;

(e) issuing commissions for examination of witnesses.

12. *Principles and method of determining compensation in cases where movable property is requisitioned or acquired.*—Where any movable property is requisitioned or acquired under this Act the compensation payable therefor and the person or

persons to whom it should be paid shall be determined in accordance with the rules to be made in this behalf by Government:

Provided that the rules so framed for payment of compensation shall,—

(a) in respect of movable property requisitioned, provide for payment of rent or other return which the property would normally fetch if so allowed to be used; and

(b) in respect of movable property acquired, for payment of compensation at the market rate prevailing on the date of acquisition.

13. *Power to obtain information.*—The Government may, with a view to carrying out the purposes of Section 3 or Section 6, or Section 7 or Section 8, or Section 12, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired under this Act.

14. *Power to enter and inspect.*—Any officer, empowered in this behalf by Government by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

15. *Service of notice and orders.*—(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Gazette; and

(b) in the case of any notice or order affecting an individual, Corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(iii) by registered post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily tracoable and the notice or order cannot be served without

undue delay, the notice or order may be served by publishing it in the Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. *Easement not to be disturbed.*—No person interested in any immovable property requisitioned or acquired under this Act shall, without the previous written consent of the Government or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable, anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. *Delegation of powers.*—(1) The Government may, by notification in the Gazette, direct that any power conferred on them by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer or authority subordinate to the Government.

(2) All notifications issued under sub-section (1) shall be laid, as soon as may be possible, before the Legislative Assembly.

(3) An appeal shall lie to the Government from any decision made by the officer or authority subordinate to the Government to whom powers have been delegated under sub-section (1).

18. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government, any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

19. *Bar of jurisdiction of Civil Courts.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20. *Penalty for offences.*—Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

21. *Certain persons to be public servants.*—The arbitrator and every officer empowered by the Government, while exercising any power or performing any duty under this Act, shall be

deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act XLV of 1860).

22. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the procedure to be followed by the Government in making inquiries under Section 3 or Section 6;

(b) the procedure to be followed in arbitration proceedings and appeals under this Act;

(c) the principles to be followed in determining the amount of compensation and method of payment of such compensation;

(d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;

(e) the manner of service of notices and orders;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under the provisions of this Act shall be laid, as soon as may be, before the Legislative Assembly.

23. *Validation of certain requisitions and acquisitions.*—Every acquisition or requisition of property purporting to have been made before the commencement of this Act by the Government for any public purpose, being a purpose of the State, under any enactment and which, immediately before such commencement, was used or occupied by the Government or by an officer or authority subordinate to the Government, shall, notwithstanding any defect in or invalidity of the enactment or order under which the acquisition or requisition was made, be deemed for all purposes to have been validly made under this Act as if this Act were in force at the time of such acquisition or requisition.

24. (1) *Repeal and Savings.*—The provisions of the Travancore-Cochin Public Safety Measures Act, 1950 (Act V of 1950) in so far as they relate to any matter for which provision has been made in this Act are hereby repealed.

(2) For the removal of doubts it is hereby declared that any property which immediately before such repeal was subject to requisition under the said provisions shall, on the commencement of this Act, be deemed to be property requisitioned under Section 3 of this Act and all the provisions of this Act shall apply accordingly:

Provided that—

(a) all agreements and awards for the payment of compensation in respect of any such property for any period of

requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notification or rules made or issued) in exercise of the powers conferred by the said provisions shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM, 1956.